

REMARKS

In the Office Action mailed October 4, 2005, Claims 1-11 were rejected under 35 U.S.C. § 112 for indefiniteness, and Claims 1-5, 7-10, and 12-20 were rejected under 35 U.S.C. § 102 (b) based on U.S. Patent No. 5,702,342 to Metzler, et al. Applicant submits that all pending claims are allowable.

In particular, Independent Claims 1 and 12 are directed to a retention apparatus and a system comprising a retention apparatus, respectively, wherein the retention apparatus includes a retaining member and a resilient member, said resilient member being compressible between the retaining member and a rotatable member of an implantable hearing aid transducer system to resiliently apply a compressive force against and thereby capture the rotatable member in a desired angular orientation relative to an auditory component. The prior art fails to disclose the retention apparatus and system of Independent Claims 1 and 12, respectively.

In particular, Metzler, et al. fails to disclose, *inter alia*, a resilient member compressible between a retaining member and a rotatable member so as to apply a compressive force against and thereby capture the rotatable member in a desired angular orientation. In this regard, the Examiner has attempted to interpret Metzler et al. so that washer 24 thereof is a “retaining member,” retention member 54 thereof is a “resilient member,” and lock ring 41 thereof is a “rotatable member.” While Applicant disagrees with this interpretation, Applicant respectfully points out that, even with such an interpretation, the retention member 54 is not operable to resiliently apply a compressive force against, much less capture, the lock ring 41 between the washer 24 and retention member 54.

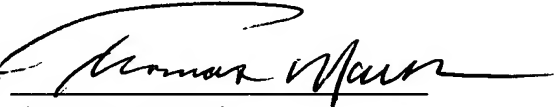
In view of the noted shortcomings of Metzler, et al., Applicant submits that Independent Claims 1 and 12 are allowable. Additionally, Applicant submits that all claims dependent upon

Independent Claim 1 or Independent Claim 12 are allowable for reasons analogous to those noted above, and further since such Claims present further combinative features not disclosed or otherwise rendered obvious by the prior art.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

Thomas R. Marsh
Registration No. 31,039
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(303) 338-0997

Date: April 4, 2006